

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.934 of 2017

In

Civil Writ Jurisdiction Case No.526 of 2016

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Bihar State Industrial Development Corporation, a Government Company incorporated under the Companies Act, 1956 having its Registered office at Indhira Bhawan, R.C. Singh Path, Patna 800001 through its Managing Director.

... .. Appellant

Versus

1. Employees Provident Fund Organization, Serpentine Road, Patna - through the Commissioner.
2. Regional Provident Fund Commissioner, Employees Provident Fund Organization, Sub - Regional office, Adampur Chowk, Bhagalpur 812001.

... .. Respondents

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Appearance :

For the Appellant/s : Mr. Nilanjan Chatterjee
For the Respondent/s : Mr. Ram Shankar Pradhan, Senior Advocate
Mr. Jai Prakash Verma, Advocate
Mr. Jainendra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 07-05-2018

Heard counsel for the appellant and learned senior counsel representing the Regional Provident Fund Commissioner.

We have gone through the impugned order dated 11.04.2017 passed by the learned single Judge in C.W.J.C. No. 526 of 2016. The learned single Judge has dealt with the issue in quite a detail both factually and legally and has rightly come to a conclusion that the appeal preferred by the present appellant before the Tribunal was hopelessly barred by limitation despite the



indulgence given to the appellant in C.W.J.C. No. 5448 of 2015 ignoring the period 07.04.2015 to 02.09.2015.

The learned single Judge, after taking note of the legal provision, had this to say in paragraph 8, 9 and 10:

“8. I am of the view that the Tribunal was right in dismissing the appeal being beyond limitation.

The relevant provision of the Rule is quoted hereunder :-

“7(2) Any person aggrieved by a notification issued by the Central Government or an order passed by the Central Government or any other authority under the Act, may within 60 days from the date of issue of the notification/order, prefer an appeal to the Tribunal.

Provided that the Tribunal may if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the prescribed period, extend the said period by a further period of 60 days.”

9. Thus, Rule 7(2) of the Rules prescribes the period of 60 days from the date of issue of notification/order to prefer an appeal to the Tribunal. Proviso to Rule 7(2) empowers the Tribunal to extend the said period by a further period of 60 days on being satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the prescribed period.

10. In the instant case, admittedly, copy of the order dated 25.06.2014 was received by the petitioner on 22.07.2014 but the appeal was filed on behalf of the petitioner on 17.09.2015. In C.W.J.C. No. 5448 of 2015 this Court directed the Tribunal to ignore the period from 07.04.2015 to 02.09.2015 while considering the period of limitation. However, if the period of limitation is taken to be 120 days for filing the appeal, it had already lapsed prior to the filing of the writ application on 07.04.2015.



Thus, even after ignoring the period from 07.04.2015 to 02.09.2015, the appeal was barred by limitation.”

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There is no legal infirmity in dismissal of the writ application, which is required to be rectified.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	07.05.2018
Transmission Date	N/A

